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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,508	10/27/2003	Todd L. Hargroder	P-7519(CIP)	2670
30553	7590	07/06/2004	EXAMINER	
GUNN, LEE & HANOR 700 N. ST. MARY'S STREET SUITE 1500 SAN ANTONIO, TX 78205			LERNER, AVRAHAM H	
			ART UNIT	PAPER NUMBER
			3611	

DATE MAILED: 07/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,508

Applicant(s)

HARGRODER, TODD L.

Examiner

Avraham Lerner

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☒ Claim(s) 7-10 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10, drawn to a manual braking system, classified in class 188, subclass 24.16.
 - II. Claims 11-20, drawn to a wheelchair, classified in class 280, subclass 304.5.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because it need not include a manual brake actuator, only a cable *connectable* to an actuator. The subcombination has separate utility such as a braking system for a bicycle or other vehicle.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with John Cave on June 22, 2004 a provisional election was made without traverse to prosecute the invention of group I, claims 1-10. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-20 have

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been withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

5. Claims 1-10 are objected to because of the following informalities: in line 5 of claim 1, the recitation "...over a pulley, said being a pulley mountable..." appears to be missing language. Appropriate correction is required.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Juan (U.S. Patent No. 6,311,805 B1).

Juan discloses a manual braking system comprising all elements as claimed, including caliper type brakes *mountable* to said wheelchair; a manual brake actuator; a braking cable connected from said caliper type brakes to said manual braking actuator over a pulley, said pulley being mountable on said wheelchair and providing substantially equal force on each of said caliper type brakes and wherein the axis of said pulley is displaceable.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Juan in view of Goss et al. (U.S. Patent Application Publication No. 2003/0151300 A1).

Juan discloses a braking system having all elements as claimed except for teaching that the brake actuator is pivotally mounted to a wheelchair (as required by claim 5), or that the calipers are positioned to exert a braking force on disks.

Goss et al. discloses that it is known in the art to provide a vehicle braking system with calipers exerting braking pressure on disks (see assembly 38), and further teaches that the same system may be interchangeably used on bicycles and wheelchairs (see especially paragraph [0008]).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the braking system of Juan with the disks as taught by Goss et al. to improve the overall braking force applicable to the vehicle. Improving the efficiency with which braking force is utilized to stop the associated vehicle would decrease the risk and increase the safety of the device as a whole, and therefore would have been obvious to one of ordinary skill.

Allowable Subject Matter

10. Claims 7-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hawkins et al. (U.S. Patent No. 5,540,304), Hlebakos (U.S. Patent No. 5,433,464), Huang (U.S. Patent No. 5,845,539), Juan (U.S. Patent No. 6,186,282), Juan (U.S. Patent No. 6,523,649), Hill (U.S. Patent No. 3,942,609), Murphy (U.S. Patent No. 5,667,236), Lee et al. (U.S. Patent No. 6,662,675 B2), and Luettwitz (U.S. Patent No. 1,674,751) disclose braking systems having pulleys and/or caliper and disk assemblies.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Avraham Lerner whose telephone number is (703) 308-0423. The examiner can normally be reached on M-F (8:15-5:45) first Wednesday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on (703) 308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

AVRAHAM LERNER
PRIMARY EXAMINER

A. Lerner 6/23/04

June 23, 2004